



UNITED STATES PATENT AND TRADEMARK OFFICE

UNITED STATES DEPARTMENT OF COMMERCE
United States Patent and Trademark Office
Address: COMMISSIONER FOR PATENTS
P.O. Box 1450
Alexandria, Virginia 22313-1450
www.uspto.gov

APPLICATION NO.	FILING DATE	FIRST NAMED INVENTOR	ATTORNEY DOCKET NO.	CONFIRMATION NO.
10/591,907	07/27/2007	Klaus Abt	016906-0545	3413

22428 7590 05/12/2010
FOLEY AND LARDNER LLP
SUITE 500
3000 K STREET NW
WASHINGTON, DC 20007

EXAMINER

HEWITT, JAMES M

ART UNIT	PAPER NUMBER
----------	--------------

3679

MAIL DATE	DELIVERY MODE
-----------	---------------

05/12/2010

PAPER

Please find below and/or attached an Office communication concerning this application or proceeding.

The time period for reply, if any, is set in the attached communication.

Office Action Summary	Application No. 10/591,907	Applicant(s) ABT ET AL.	
	Examiner JAMES M. HEWITT	Art Unit 3679	

-- The MAILING DATE of this communication appears on the cover sheet with the correspondence address --

Period for Reply

A SHORTENED STATUTORY PERIOD FOR REPLY IS SET TO EXPIRE 3 MONTH(S) OR THIRTY (30) DAYS, WHICHEVER IS LONGER, FROM THE MAILING DATE OF THIS COMMUNICATION.

- Extensions of time may be available under the provisions of 37 CFR 1.136(a). In no event, however, may a reply be timely filed after SIX (6) MONTHS from the mailing date of this communication.
- If NO period for reply is specified above, the maximum statutory period will apply and will expire SIX (6) MONTHS from the mailing date of this communication.
- Failure to reply within the set or extended period for reply will, by statute, cause the application to become ABANDONED (35 U.S.C. § 133). Any reply received by the Office later than three months after the mailing date of this communication, even if timely filed, may reduce any earned patent term adjustment. See 37 CFR 1.704(b).

Status

- 1) ☒ Responsive to communication(s) filed on 02 April 2010.
- 2a) ☐ This action is **FINAL**. 2b) ☒ This action is non-final.
- 3) ☐ Since this application is in condition for allowance except for formal matters, prosecution as to the merits is closed in accordance with the practice under *Ex parte Quayle*, 1935 C.D. 11, 453 O.G. 213.

Disposition of Claims

- 4) ☒ Claim(s) 1-20 is/are pending in the application.
- 4a) Of the above claim(s) 9-20 is/are withdrawn from consideration.
- 5) ☐ Claim(s) _____ is/are allowed.
- 6) ☒ Claim(s) 1-8 is/are rejected.
- 7) ☐ Claim(s) _____ is/are objected to.
- 8) ☐ Claim(s) _____ are subject to restriction and/or election requirement.

Application Papers

- 9) ☒ The specification is objected to by the Examiner.
- 10) ☐ The drawing(s) filed on _____ is/are: a) ☐ accepted or b) ☐ objected to by the Examiner.
Applicant may not request that any objection to the drawing(s) be held in abeyance. See 37 CFR 1.85(a).
Replacement drawing sheet(s) including the correction is required if the drawing(s) is objected to. See 37 CFR 1.121(d).
- 11) ☐ The oath or declaration is objected to by the Examiner. Note the attached Office Action or form PTO-152.

Priority under 35 U.S.C. § 119

- 12) ☒ Acknowledgment is made of a claim for foreign priority under 35 U.S.C. § 119(a)-(d) or (f).
- a) ☒ All b) ☐ Some * c) ☐ None of:
1. ☐ Certified copies of the priority documents have been received.
 2. ☐ Certified copies of the priority documents have been received in Application No. _____.
 3. ☒ Copies of the certified copies of the priority documents have been received in this National Stage application from the International Bureau (PCT Rule 17.2(a)).

* See the attached detailed Office action for a list of the certified copies not received.

Attachment(s)

- | | |
|---|---|
| 1) <input checked="" type="checkbox"/> Notice of References Cited (PTO-892) | 4) <input type="checkbox"/> Interview Summary (PTO-413)
Paper No(s)/Mail Date. _____ |
| 2) <input type="checkbox"/> Notice of Draftperson's Patent Drawing Review (PTO-948) | 5) <input type="checkbox"/> Notice of Informal Patent Application |
| 3) <input checked="" type="checkbox"/> Information Disclosure Statement(s) (PTO/SB/08)
Paper No(s)/Mail Date _____ | 6) <input type="checkbox"/> Other: _____ |

DETAILED ACTION

Election/Restrictions

Claims 9-20 are withdrawn from further consideration pursuant to 37 CFR 1.142(b), as being drawn to a nonelected invention, there being no allowable generic or linking claim. Applicant timely traversed the restriction (election) requirement in the reply filed on 4/2/10.

Applicant's election with traverse of Group I in the reply filed on 4/2/10 is acknowledged. The traversal is on the ground(s) that as claim 9 requires all the features of the connection piece of claim 1, the special technical features of claim 1 are also present in claim 9 and accordingly, claims 1-8 (Group I) and claims 9-20 (Group II) are related to a general inventive concept. This is not found persuasive because claim 9 does not require all of the features of the connection piece of claim 1. Claim 9 recites "A tool *for* fixing a connection piece as claimed in claim 1". Claim 9 is drawn to a tool that is intended to be used with the connection piece of claim 1, not to the tool and connection piece itself. And therefore the special technical features of claim 1 are not present in claim 9 and accordingly, claims 1-8 (Group I) and claims 9-20 (Group II) are not related to a general inventive concept.

The requirement is still deemed proper and is therefore made FINAL.

Specification

The abstract of the disclosure is objected to because it includes the implied phrase "The invention relates to" and the legal term "said". Correction is required. See MPEP § 608.01(b).

The disclosure is objected to because of the following informalities:

Appropriate section headings (i.e. "Background of the Invention", "Summary of the Invention", etc.) should be inserted throughout the specification.

Appropriate correction is required.

The title of the invention is not descriptive. A new title is required that is clearly indicative of the invention to which the claims are directed.

Claim Rejections - 35 USC § 112

The following is a quotation of the second paragraph of 35 U.S.C. 112:

The specification shall conclude with one or more claims particularly pointing out and distinctly claiming the subject matter which the applicant regards as his invention.

Claims 1-8 are rejected under 35 U.S.C. 112, second paragraph, as being indefinite for failing to particularly point out and distinctly claim the subject matter which applicant regards as the invention.

A broad range or limitation together with a narrow range or limitation that falls within the broad range or limitation (in the same claim) is considered indefinite, since the resulting claim does not clearly set forth the metes and bounds of the patent protection desired. See MPEP § 2173.05(c). Note the explanation given by the Board of Patent Appeals and Interferences in *Ex parte Wu*, 10 USPQ2d 2031, 2033 (Bd. Pat.

Art Unit: 3679

App. & Inter. 1989), as to where broad language is followed by "such as" and then narrow language. The Board stated that this can render a claim indefinite by raising a question or doubt as to whether the feature introduced by such language is (a) merely exemplary of the remainder of the claim, and therefore not required, or (b) a required feature of the claims. Note also, for example, the decisions of *Ex parte Steigewald*, 131 USPQ 74 (Bd. App. 1961); *Ex parte Hall*, 83 USPQ 38 (Bd. App. 1948); and *Ex parte Hasche*, 86 USPQ 481 (Bd. App. 1949). In the present instance, claim 1 recites the broad recitation a container, and the claim also recites a header of a heat exchanger which is the narrower statement of the range/limitation.

Claim Rejections - 35 USC § 102

The following is a quotation of the appropriate paragraphs of 35 U.S.C. 102 that form the basis for the rejections under this section made in this Office action:

A person shall be entitled to a patent unless –

(b) the invention was patented or described in a printed publication in this or a foreign country or in public use or on sale in this country, more than one year prior to the date of application for patent in the United States.

Claims 1-5 and 7-8 are rejected under 35 U.S.C. 102(b) as being anticipated by Mittinger (US 1,136,698).

As to claim 1, Mittinger discloses a container (3) with an orifice in which a connection piece (1) is mounted, wherein the connection piece has, at its end facing the container a deformable connection piece edge region which, before deformation, projects into the container and, after deformation (left side of figure), bears at least partially against the container orifice on the inside.

As to claim 2, Mittinger discloses a container as claimed in claim 1, wherein the deformable connection piece edge region is connected with a form fit to that edge region of the container which has the container orifice

As to claim 3, Mittinger discloses a container as claimed in claim 1, that wherein the deformable connection piece edge region has a projection (5) which, before deformation, projects radially inward and, during deformation, is deformed radially outward.

As to claim 4, Mittinger discloses a container as claimed in claim 3, wherein the projection is delimited by a continuous slope.

As to claim 5, Mittinger discloses a container as claimed in claim 4, wherein the continuous slope runs at an angle of about 45 degrees with respect to the connection piece longitudinal axis.

As to claim 7, Mittinger discloses a container as claimed in claim 1, wherein a collar (at right of numeral 6 in figure) is formed at that end of the connection piece which has the deformable connection piece edge region

As to claim 8, Mittinger discloses a container as claimed in claim 1, wherein a continuous depression is formed radially on the outside between the collar and the deformable connection piece edge region. Refer to figure prior to deformation.

Claims 1-2 and 6 are rejected under 35 U.S.C. 102(b) as being anticipated by Williams (US 4,233,726).

As to claim 1, Williams discloses a container with an orifice in which a connection piece (26) is mounted, wherein the connection piece has, at its end facing the container a deformable connection piece edge region (30) which, before deformation, projects into the container and, after deformation, bears at least partially against the container orifice on the inside. Refer to FIGS. 3 and 4.

As to claim 2, Williams discloses a container as claimed in claim 1, wherein the deformable connection piece edge region is connected with a form fit to that edge region of the container which has the container orifice

As to claim 6, Williams discloses a container as claimed in one claim 1, wherein, in the edge region of the container orifice, at least one deformed region (18) is formed, into which a complementarily deformed region of the deformable connection piece edge region engages (FIG. 4).

Conclusion

The prior art made of record and not relied upon is considered pertinent to applicant's disclosure.

Any inquiry concerning this communication or earlier communications from the examiner should be directed to JAMES M. HEWITT whose telephone number is (571)272-7084. The examiner can normally be reached on M-F, 930am-600pm.

If attempts to reach the examiner by telephone are unsuccessful, the examiner's supervisor, Daniel Stodola can be reached on 571-272-7087. The fax phone number for the organization where this application or proceeding is assigned is 571-273-8300.

Information regarding the status of an application may be obtained from the Patent Application Information Retrieval (PAIR) system. Status information for published applications may be obtained from either Private PAIR or Public PAIR. Status information for unpublished applications is available through Private PAIR only. For more information about the PAIR system, see <http://pair-direct.uspto.gov>. Should you have questions on access to the Private PAIR system, contact the Electronic Business Center (EBC) at 866-217-9197 (toll-free). If you would like assistance from a USPTO Customer Service Representative or access to the automated information system, call 800-786-9199 (IN USA OR CANADA) or 571-272-1000.

/James M Hewitt/
Primary Examiner, Art Unit 3679